

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on July 6, 2007. A petition for a one month extension of time is submitted herewith. The Director is authorized to charge \$120.00 for the petition for extension of time and any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-666 on the account statement.

Claims 1-21 are pending in this application. In the Office Action, Claims 8-9, and 14-16 are objected to. Claims 1-7, 10-13, and 17-21 are rejected under 35 U.S.C. §102. In response, Claims 1, 10, 12-13, and 17-20 have been amended. Claims 10, 12-13, 17, and 19-20 have been amended to correct informalities. Claims 22-26 have been newly added. The amendments do not add new matter. In view of the amendments or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 8-9 and 14-16 were objected to as being dependent upon a rejected base claim. In response, Applicants have newly added Claims 22-26, which represent Claims 8-9 and 14-16 rewritten in independent form and including all of the limitations of the base claim and any intervening claims, as suggested by the Examiner. Applicants have also, therefore, canceled Claims 8-9 and 14-16, the content of which has been incorporated into newly added Claims 22-26.

Accordingly, Applicants respectfully request that the objection of Claims 8-9 and 14-16 be withdrawn and newly added Claims 22-26 be passed to allowance.

In the Office Action, Claims 1-7, 10-13, and 17-21 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,652,015 to Beall ("*Beall*"). In view of the amendments and/or for at least the reasons set forth below, Applicants respectfully request that the rejection be withdrawn.

As currently amended, independent Claim 1 recites, in part, a device for pumping a liquid from a packaging comprising an aspiration subassembly of a venturi type, said subassembly comprises a nozzle, wherein the nozzle is housed in a hollow shaft that extends from a top of the packaging to a bottom of the packaging. Further, currently amended independent Claim 18

recites, in part, a device for pumping a liquid from a container comprising an aspiration subassembly comprising a nozzle of a venturi type, wherein the nozzle is housed in a hollow shaft that extends from a top of the container to the bottom end wall of the container. The amendments are supported in the specification at, for example, page 9, [0049]–page 10 [0051], and Figures 1-2, 10-13, and 15-18. Therefore, the currently amended subject matter requires that the nozzle of the aspiration subassembly be integral to the packaging or container as a whole and surrounded or encapsulated by the packaging or container that holds the pumpable liquid. See, specification, page 6, [0015], page 7, [0021]. An advantage to such a construction is one of being able to quickly and easily combine the aspiration and mixing means so as to form a froth, or possibly an emulsion, with the packaging itself. Preparation is, thus, made more convenient and more hygienic. See, specification, page 5, [0013]. In contrast, Applicants respectfully submit that *Beall* fails to disclose or suggest every element of the present claims.

Beall fails to disclose a venturi-type nozzle that is housed within a hollow shaft that extends from a top of the packaging to the bottom of the packaging as is required, in part, by currently amended independent Claim 1. *Beall* similarly fails to disclose a venturi-type nozzle that is housed within a hollow shaft that extends from a top of the container to the end wall of the container as is required, in part, by currently amended independent Claim 18. Instead, *Beall* is directed entirely toward a nebulizer for inhalation therapy that is connected to a liquid container and serves as a physical “adapter” to the liquid container. For example, the nebulizer of *Beall* includes body of rigid plastic fabrication having a vertically orientable lower socket that is formed in the body and has an internal spiral thread. The internal spiral thread operates to match external threads formed on a duct of a container separate from the nebulizer. Therefore, the internal spiral threads operate to mount the nebulizer on top of a container that houses a pumpable liquid. See, *Beall*, column 2, lines 15-34, Figure 1. Because *Beall* discloses a nebulizer having a venturi that is mounted on top of a container that houses a pumpable liquid, *Beall* cannot disclose a nozzle that is housed in a hollow shaft that extends from a top of a packaging or container to the bottom of a packaging or container, and is thus, surrounded or encapsulated by the liquid contained in the packaging or container. Therefore, *Beall* fails to disclose wherein the nozzle of the aspiration subassembly is housed in a hollow shaft that

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extends from the top of a package or container to the bottom of a package or container as is required, in part, by presently amended Claims 1 and 18.


Accordingly, Applicants respectfully request that the anticipation rejection with respect to Claims 1-7, 10-13, and 17-21 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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